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May 19, 2004

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: In the Matter of the Commission's Rules Regarding Modification of FM and AM Authorizations
(RM-10960)

Dear Ms. Dortch:

The purpose of these comments is to express the opposition of Fisher Broadcasting Company ("Fisher") to the Petition for Rulemaking (RM-10960) (the "Petition") submitted to the Commission by First Broadcasting Investment Partners, LLC ("First") on March 5, 2004. The Commission announced on April 22, 2004, that it would accept comments in support or in opposition to the Rulemaking through May 24, 2004. *See* Public Notice No. 2657, released April 22, 2004. These comments are timely submitted in response to that Public Notice.

Fisher has been a Commission licensee since 1927. It presently operates ten television stations and twenty-seven radio stations in Washington, Oregon, Idaho and Montana¹. Fisher has a long record of service in the public interest based upon the concept of superior service to its local viewers and listeners. It is concerned that the Petition ignores the needs of the communities of license of existing and allocated stations.

The Petition proposes certain amendments to the Commission's rules governing the process for modifying FM and AM radio station licenses and construction permits. While adoption of the proposed amendments to current Commission rules and procedures would certainly benefit the private interests of First and other companies desirous of removing service from smaller, lesser served communities into large media markets, such action would disserve the public interest. While First is right that its proposed changes would be in the best interests of a few station owners, it most definitely would not be in the best interests of the listening public. Moreover, while First claims that its proposals are designed to ease "burdens" on the Commission's staff, where the issue comes down to convenience for the Commission versus the needs of rural and small community listeners, we believe that law and policy require that the interests of the public be paramount.

¹ The licenses for these stations are held by various wholly owned subsidiaries of Fisher except for one television station in which Fisher holds a 50% equity interest but manages the station on a fulltime basis.

The Petition is but a thinly disguised request for yet more tools to permit companies such as First to strip much needed local AM and FM channels from deserving communities in smaller, independent advertising markets and moving them dozens or hundreds of miles into the core of major rated advertising markets. This practice typically is cloaked by claims that it will advance a preferential public interest goal -- providing a first local transmission service to some small constituent community or another in or near a major Urbanized Area. Careers have been based on the manipulation of the “first local service” priority, and windfall profits by organizations that have taken advantage of such “opportunities.” Yet the public interest has not been advanced one iota by such practices.

It is perhaps most telling that in listing the stations which First owns, at Footnote 12 of the Petition, it totally omits to provide the communities to which its stations are licensed. A check of the Commission’s records will reveal that all are licensed to smaller communities, and that many are obvious “move-in” targets. There is no other rationale basis for such a “seasoned operator” to own stations in such markets. For example, KRVF(FM) is licensed to Kerens, Texas, near Dallas, and KRVA-FM is licensed to Campbell, Texas, also within thirty miles or so of Dallas. First notes that it is the owner of KAZZ(FM), Deer Park, Washington, which is a bit north of Spokane. The station is shown on the FCC records as currently silent, but there is a pending booster application to serve the city of Spokane itself. In a Press Release on its web site, First claims to have acquired two Seattle/Tacoma radio stations² – KLLM(FM) and KVAC(AM), Forks, Washington., a small town located on the Western side of the Olympic mountain range near the shores of the Pacific about as physically and socially separated from the Seattle/Tacoma metropolis as it is possible to be and still be in the Seattle/Tacoma ADI. KXCL(FM), is licensed to serve Yuba City, California, but there is a pending petition to downgrade the station from Class B1 to Class A, and to change the city of license to Lincoln, California, just outside of Sacramento. Finally, in Footnote 15 of the Petition, First brags about how it has improved the facilities of KZSA(FM) (now KRLL(FM)), Placerville, California – improving it to the point that it is now marketed as “Sacramento’s Country Music Leader.” Given that Placerville is approximately 35 miles east of Sacramento, it is hard to understand how this benefits the public in the station’s community of license.³

As this process of denuding smaller radio markets to feed the insatiable appetite for new major market stations continues to grow, the Commission is faced with a fundamental question: How much longer can the Commission ignore the reality that this process exacerbates the existing imbalance in the availability of local radio service between “haves” living in larger radio markets and “have-nots” living in smaller markets? The Commission is obligated under the Communications Act of 1934, as amended, to:

... make such distribution of licenses ... among the several States and communities as to provide a fair, efficient and equitable distribution of radio service ...

47 USC §307(b). There is no way that the Commission can make an honest determination as to whether a change in a station’s community of license results in a preferential arrangement of service to the states and the communities under Section 307(b) using the abbreviated, minor change application procedure advocated by First. Indeed, for Section 307(b) reasons alone the First proposals must be rejected.

First’s claim that adoption of its proposals would improve spectrum efficiency is unpersuasive. It is just code for the First’s desire to “move-in” stations from small markets to large markets, thereby dramatically increasing their value for resale by First. Spectrum efficiency, as interpreted by First, means serving the most bodies, regardless of how well or poorly they are served by existing facilities. Perhaps this helps

² See First Broadcasting Acquires Two Seattle/Tacoma Radio Stations, <http://www.firstbroadcasting.com/latestnews.htm>.

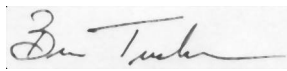
³ Attention is called to First’s own Press Release, First Broadcasting Covers Sacramento with Two Key FM Deals, *id.*

First meet its stated “Targeted 25-35% Rates of Return,” on its investments⁴ but Fisher believes this approach is contrary to the public interest, and Fisher’s analysis is supported by the very language of Section 307(b).

So as not to unduly burden the record in this proceeding, Fisher will not address each of the proposals made by First. There will be time enough to do that should the Commission issue a Notice of Proposed Rulemaking to address First’s proposals. Suffice it to say that the First Petition utterly fails to demonstrate any public interest rationale for its adoption, and that no such Rulemaking should be initiated.

For all the reasons stated above, we wish to express our opposition to the Rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Tucker", on a light-colored rectangular background.

Ben Tucker
President
Fisher Broadcasting Company